

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Dov Levavi	Team: Team # 4	CCRB Case #: 201403203	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/25/2014 6:30 PM	Location of Incident: East Fordham Road and Arthur Avenue	Precinct: 48	18 Mo. SOL 9/25/2015	EO SOL 9/25/2015	
Date/Time CV Reported Thu, 03/27/2014 10:30 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 04/03/2014 3:06 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Donald Hoffman	26053	945824	048 PCT
2. POM Andres Zambrano	13633	952365	048 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Nathan Yakubov	04335	940874	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Donald Hoffman	Force: PO Donald Hoffman used physical force against § 87(2)(b)	
B.POM Donald Hoffman	Abuse: PO Donald Hoffman threatened to arrest § 87(2)(b)	
C.POM Andres Zambrano	Discourtesy: PO Andres Zambrano spoke discourteously to § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		

Case Summary

On March 27, 2014, § 87(2)(b) called the IAB command center to file a complaint (log #14-11127) that was received by the CCRB on April 3, 2014 (encl. b1-2). At approximately 6:30 p.m. on March 25, 2014, § 87(2)(b) was issued summonses in the vicinity of East Fordham Road and Arthur Avenue in the Bronx. The following allegations resulted from § 87(2)(b)'s interactions with officers:

- **Allegation A – Force: PO Donald Hoffman used physical force against § 87(2)(b)**

§ 87(2)(g)

- **Allegation B – Abuse of Authority: PO Donald Hoffman threatened to arrest § 87(2)(b)**

- **Allegation C – Discourtesy: PO Andres Zambrano spoke discourteously to § 87(2)(b)**

§ 87(2)(g)

- § 87(4-b) § 87(2)(g)

Following Inv. Galen Baynes' departure from the agency, this case was reassigned to ASI Dov Levavi on July 1, 2014.

§ 87(2)(b) rejected mediation.

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a 6'1", 280-pound, § 87(2)(b)-old white male with black hair and green eyes.
- § 87(2)(b)

CCRB Statement:

§ 87(2)(b) provided a telephone statement to IAB on March 27, 2014 (encl. b5-6). He provided a telephone statement to the CCRB on April 11, 2014 (encl. b7-8) and was interviewed at the CCRB on April 22, 2014 (encl. b9-15). § 87(2)(g) On March 25, 2014, § 87(2)(b) was working as a taxi driver § 87(2)(b). § 87(2)(b) was driving his blue 2007 Toyota Camry. He was wearing a black leather jacket and jeans. § 87(2)(b) was dispatched to pick up a customer at 1 Metropolitan Oval in the Bronx. The customer was traveling to Park Avenue and East 184th Street in the Bronx. Shortly before 6:30 p.m., § 87(2)(b) picked up the customer at 1 Metropolitan Oval. Though he believed the customer was a male, he had trouble discerning whether the customer was a male or a female because the customer was dressed in a red hoodie and black cap with the hoodie up. The customer was approximately 6'1" tall with a medium build in his late-20s.

When the customer got in the cab, § 87(2)(b) was listening to ESPN radio. The customer told § 87(2)(b) to change the radio station to a rap channel, 105.1. Two blocks later, the customer told § 87(2)(b) to turn the radio up. § 87(2)(b) complied with his request and turned the radio up slightly. After another few blocks the customer said to § 87(2)(b) angrily, “Man, you don’t understand? I can’t hear that music.” § 87(2)(b) told the customer that he could not turn the music up any higher because he needed to hear what was going on outside as he was driving. As § 87(2)(b) arrived at Fordham Road he began to smell smoke. He looked back and saw that the customer was smoking a tobacco cigarette in the car. § 87(2)(b) told the customer that it was against the law to smoke in the car. The customer told § 87(2)(b) that there was no sign in the car indicating he could not smoke. § 87(2)(b) said, “You think I’m stupid?”

§ 87(2)(b) then pulled his car over under the bridge on East Fordham Road, approximately one block east of Hughes Avenue, and told the customer to exit the car. The customer said, “No way. You have to take me to my address.” § 87(2)(b) said, “No. You disrespected me and smoked in the car. I can’t allow that to happen.” The customer grabbed the right collar of § 87(2)(b)’s jacket and said, “You better take me there.” § 87(2)(b) told the customer that he was not going to move. The customer told § 87(2)(b) that he was not going to get out of the vehicle while they were under the bridge. In total, § 87(2)(b) was stopped under the bridge arguing with the customer for approximately three minutes. During this time, § 87(2)(b) took his phone out and told the customer that he was going to call the police.

After the customer refused to exit the vehicle while still under the bridge, § 87(2)(b) drove to the intersection directly after the bridge, which was Hughes Avenue and East Fordham Road. He stopped in the bus lane because it was the first feasible place for him to stop, and asked the customer to get out of his vehicle. The customer was cursing at § 87(2)(b) and said, “You’re lucky you’re in this area.” The customer was also on the phone with another individual and was making statements such as, “This fucking driver. I don’t know what’s wrong with him.” The customer remained in the vehicle arguing with § 87(2)(b) for approximately two minutes before exiting the vehicle. § 87(2)(b) realized that he was in the bus lane, so he decided to drive to a gas station approximately one block away. § 87(2)(b) began driving toward the gas station when he heard sirens and saw a marked police vehicle flashing its lights behind him.

§ 87(2)(b) was happy to see the police because he was going to call them anyway in regards to the incident with his customer. He pulled his vehicle over immediately. When he pulled the vehicle over, § 87(2)(b) could still see the customer in his rear-view mirror. The customer was walking toward § 87(2)(b)’s vehicle. After he pulled over, two uniformed officers approached his vehicle. § 87(2)(b) did not make any movements as they approached. § 87(2)(b) described one officer, identified by the CCRB as PO Donald Hoffman, as a 5’7”-5’8” tall, 180-190 pound white or light-skinned Hispanic male in his late-20s-early-30s with short hair. He described the second officer, identified by the CCRB as PO Andres Zambrano, as a 5’11” tall, 170-180 pound dark-brown-skinned “Guyanese” male in his 30s. He could tell that PO Zambrano was Guyanese from his accent and skin-tone. § 87(2)(b) believed that PO Hoffman was driving the police vehicle and that PO Zambrano was the passenger. PO Hoffman approached on the driver’s side of the vehicle and PO Zambrano approached on the passenger’s side. § 87(2)(b) said to PO Hoffman, “Thank God I saw you. I was just about to call 911.” § 87(2)(b) was still holding his phone at this point. PO Hoffman said to § 87(2)(b) “I’m not stopping you for the phone. I’m stopping you because you were driving in the bus lane.”

§ 87(2)(b) said to PO Hoffman, “Yeah. I had an incident with a customer and I had to drop him because I was scared for my life.” PO Hoffman said to § 87(2)(b) “I was behind you from Crotona

Avenue and you were in the bus lane.” PO Hoffman said that § 87(2)(b) was driving in the bus lane for three blocks. § 87(2)(b) stated during his CCRB interview that he was never driving on Crotona Avenue and that PO Hoffman could not have seen him at Crotona Avenue because he was under the bridge while Crotona Avenue passes over the bridge. § 87(2)(b) told PO Hoffman that he had to drop off a customer that had been a problem. PO Hoffman said, “Give me our license. I’m gonna issue you a ticket.” § 87(2)(b) produced his license from the breast pocket of his leather jacket and gave it to PO Hoffman. He also said, “But this person smoked in my car and cursed at me.” PO Hoffman said, “I’m not interested in hearing what happened.” PO Hoffman also said, “I didn’t even see anyone. I didn’t see you dropping anyone.”

PO Zambrano came around to the driver’s side of the vehicle and asked § 87(2)(b) for his hack license. § 87(2)(b) provided the license to PO Zambrano. § 87(2)(b) said, “Can I show you the person?” PO Hoffman said, “No. Give me your license.” PO Hoffman also said, “It better be your license. I don’t wanna see no PBA card.” § 87(2)(b) did not know what PO Hoffman was talking about when he made this statement. § 87(2)(b) said to PO Hoffman, “So you’re not going to investigate my complaint?” PO Hoffman said, “What complaint? What are you talking about?” § 87(2)(b) told PO Hoffman that the customer had been smoking in his car. PO Hoffman said, “Well, if he smoked in the car that’s not a big deal.” At this point, the customer that § 87(2)(b) had dropped off was walking approximately 20 feet in front of § 87(2)(b)’s vehicle. § 87(2)(b) said to PO Hoffman, “Let me show you the person.” PO Hoffman looked up and said, “What person?” § 87(2)(b) said, “He’s right in front of you. He’s wearing red.” PO Hoffman said, “I don’t see no one.” Up to this point, both PO Hoffman and § 87(2)(b) had been speaking in calm, conversational tones.

§ 87(2)(b) opened the door to his vehicle and started to step out to point out the customer. When § 87(2)(b) opened the door, PO Hoffman was standing in front of the door but far enough away that the door did not make contact with PO Hoffman when § 87(2)(b) opened it. PO Hoffman and PO Zambrano shouted at § 87(2)(b). Both PO Hoffman and PO Zambrano “attacked” § 87(2)(b) pushing him back into the car. § 87(2)(b) had only stepped half-way out of his car when the officers pushed him back in. An officer § 87(2)(b) was not sure which) grabbed § 87(2)(b)’s left wrist and twisted it. One of the officers (who § 87(2)(b) believed was PO Hoffman because he was closest to him) pushed § 87(2)(b)’s head, causing it to make contact with the top doorframe of his car. § 87(2)(b) stated that his neck was still stiff as a result of his head hitting the door, but that he never sought medical treatment.

As they pushed him back into the car, PO Hoffman shouted, “Now you’re gonna go to jail! Now you messed up!” PO Zambrano shouted, “Get back in your fucking car!” § 87(2)(b) did not offer any physical resistance as they pushed him back into the car and he sat back down in the driver’s seat. In his telephone statement, § 87(2)(b) alleged that PO Zambrano told him he was “fucking stupid.” PO Hoffman slammed the car door shut. PO Hoffman shouted at § 87(2)(b) “You’re resisting arrest! Now you’re gonna go to jail!” PO Hoffman also shouted at § 87(2)(b) approximately three times, “Now I’m gonna suspend your license! Now I’m gonna take you to jail!” PO Hoffman also told § 87(2)(b) that he was going to receive three tickets, and that if he kept talking he was going to receive four. § 87(2)(b) asked why he was going to receive tickets. PO Hoffman said he was going to issue tickets for resisting arrest, disorderly conduct, and the traffic violation. § 87(2)(b) told the officers that he was going to make a complaint against them for using profanity and for using unnecessary force.

PO Hoffman and PO Zambrano then returned to the police vehicle. They remained in the vehicle for approximately 30 minutes. After 30 minutes, PO Hoffman approached § 87(2)(b)’s vehicle again. He issued § 87(2)(b) one ticket for stopping in a bus lane and said, “You’re lucky that I’m not gonna

search your car.” § 87(2)(b) said, “Go ahead, search the car. There’s nothing I’m hiding in the car.” PO Hoffman did not search § 87(2)(b) s car. § 87(2)(b) did not see PO Hoffman write the ticket.

Before returning to the police vehicle, PO Hoffman asked to see the docket listing § 87(2)(b) s pick-ups and drop-offs for the day. § 87(2)(b) s docket is on a Tablet. He took out the Tablet and showed PO Hoffman where he had picked up the customer and where he had intended to drop the customer off. PO Hoffman said, “How come you didn’t do the drop-off?” § 87(2)(b) replied that he only logs the drop-off once he is paid, and that he did not get paid and had told the customer to get out of his car. § 87(2)(b) stated that his tone of voice was calm and respectful throughout the incident and that he did not do or say anything to the officers to express any aggression towards them. He stated that he felt humiliated by the officers during the incident and that he was upset they would not take his complaint about the customer.

Immediately after the incident, at approximately 7:00 p.m., § 87(2)(b) went to the 48th Precinct stationhouse in order to file a complaint about PO Hoffman and PO Zambrano. He knew the officers were from the 48th Precinct because he read it on the ticket. § 87(2)(b) stated that he had previously provided the tax identification number of the officer listed on his ticket to a CCRB investigator, but did not have a copy of the ticket at his in-person interview. At the stationhouse, § 87(2)(b) spoke with the desk officer, PO3. He described PO3 as an approximately 5’9” tall, 200-pound white male in uniform in his early-30s. § 87(2)(b) told PO3 that he wanted to file a complaint about two officers. PO3 told § 87(2)(b) to wait and left, then returned after five minutes and said, “You can’t file a complaint here. You have to call this number.” PO3 wrote a number on a sheet of paper and gave it to § 87(2)(b). After giving § 87(2)(b) the number, PO3 smirked and said, “Good luck with that.” There were approximately four other officers present when § 87(2)(b) interacted with PO3. He could not describe these officers in detail, but stated that they were all white or light-skinned Hispanic males. § 87(2)(b) later called the number and filed a complaint with the CCRB.

When called on September 17, 2014 for additional details about the incident in the stationhouse, (encl. b16) § 87(2)(b) stated that he did not have a problem with PO3 and although he felt that PO3 was trying to cover up for PO Hoffman and PO Zambrano, he did not want the incident at the stationhouse investigated.

NYPD Statements:

Subject Officer: PO DONALD HOFFMAN

- *PO Donald Hoffman is a 5’4”, 145-pound, § 87(2)(b) -old, white male with brown hair and brown eyes.*
- *On March 25, 2014, PO Hoffman of the 48th Precinct worked between the hours of 3 p.m. and 11:35 p.m. He was assigned as the traffic officer in a marked vehicle (RMP #4482) and was dressed in uniform. He was partnered with PO Zambrano of the same command.*

Memo Book:

6:32 p.m., summons § 87(2)(b) – bus lane, parked northeast in the vicinity of Fordham and Arthur. Saw car in bus lane. Followed two more blocks. § 87(2)(b) class E, ID § 87(2)(b) (NY). Male, § 87(2)(b), 2007 blue Toyota OMT, Plate § 87(2)(b). No passengers. License valid. (encl. c1-4)

CCRB Statement:

PO Hoffman was interviewed at the CCRB on May 14, 2014 (encl. c5-7). At approximately 6:30 p.m. on March 25, 2014, PO Hoffman was driving his marked RMP west-bound on Fordham Road in the Bronx when he observed a taxi driving west-bound in the bus lane near the intersection of Fordham Road and

Arthur Avenue. Fordham Road is heavily trafficked. PO Hoffman used his lights and siren to pull § 87(2)(b) over after following him for approximately three blocks, during which time § 87(2)(b) had continued to drive in the bus lane. § 87(2)(b) immediately complied and pulled over. At no point did PO Hoffman see a passenger exit the vehicle, nor was there a passenger in the vehicle when PO Hoffman pulled it over.

PO Hoffman, who was driving the RMP, and his partner, PO Zambrano, exited the RMP. PO Hoffman approached the vehicle on the driver's side while PO Zambrano approached on the passenger's side. PO Hoffman approached § 87(2)(b) asked him for his license, and told him that he had been pulled over for driving in the bus lane. § 87(2)(b) was screaming and was irate from the moment PO Hoffman approached the vehicle. PO Hoffman did not recall what § 87(2)(b) was saying, but he was complaining about having been stopped. § 87(2)(b) did not hand his license to PO Hoffman initially.

PO Hoffman did not recall § 87(2)(b) stating that he had just had an altercation with a passenger in his taxi. § 87(2)(b) did not tell PO Hoffman that he had just kicked a passenger out of the taxi because the passenger had been smoking and causing problems.

§ 87(2)(b) then opened the car door and began to get out of the vehicle. He did not provide any explanation as to why he attempted to step out of the vehicle. § 87(2)(b) did not state that he wanted to point out the passenger that had been causing problems. PO Hoffman noted that, as per his training, he is not supposed to let motorists get out of their vehicles in high-traffic areas both for their own safety and for the safety of the officers. PO Hoffman attempted to stop § 87(2)(b) from exiting his vehicle by grabbing the car door as § 87(2)(b) opened it. PO Hoffman said, "Sir, you've gotta stay in your car." § 87(2)(b) was significantly larger than PO Hoffman, who is 5'4"-tall and weighs approximately 145 pounds. PO Hoffman estimated that § 87(2)(b) was 6'-tall and weighed 250 pounds.

§ 87(2)(b) overpowered PO Hoffman, opened the door, and stood up outside of the vehicle. PO Hoffman put both hands out in front of him, pressed on § 87(2)(b)'s upper chest, and told him, "Sir, you can't get out of the car." PO Hoffman stated that he placed his hand on § 87(2)(b)'s chest in order to stop § 87(2)(b) from advancing on him, but did not push § 87(2)(b). § 87(2)(b) did not fall or make any movement as a result of PO Hoffman putting his hands out.

PO Zambrano came around the rear of the vehicle as this was happening. After PO Hoffman put his hands on § 87(2)(b)'s chest, § 87(2)(b) sat back down in his vehicle, slammed the door, and started screaming and cursing at PO Hoffman. By the time PO Zambrano walked around to the driver's side of the vehicle, § 87(2)(b) was already back in his car. § 87(2)(b) was only standing outside of his car for a few seconds in total. PO Hoffman did not push § 87(2)(b)'s head as he was getting back in the vehicle. He did not see § 87(2)(b)'s head make contact with the vehicle's doorframe as he got back into the car. PO Hoffman did not say to § 87(2)(b) "Get back in the fucking car." He did not hear PO Zambrano make this statement.

PO Hoffman stated that § 87(2)(b) could have been arrested for disorderly conduct and for failure to comply with a lawful order during the incident. However, PO Hoffman did not decide to arrest § 87(2)(b) at any point. At no point did PO Hoffman tell § 87(2)(b) that he could be placed under arrest. At no point did he say to him, "Now you're gonna go to jail." At no point did he tell § 87(2)(b) that his license was going to be suspended.

PO Hoffman retrieved § 87(2)(b)'s license from him and returned to the RMP to write the summons for stopping in a bus lane. After writing the summons he approached the vehicle again and gave § 87(2)(b)

§ 87(2)(b) the summons. When PO Hoffman handed him the summons, § 87(2)(b) said, “If you give me a summons, I’m gonna complain.”

At no point during the incident did PO Hoffman ask to search § 87(2)(b)’s car. PO Hoffman did not interact with § 87(2)(b) again at any point after the incident. He did not see § 87(2)(b) at the 48th Precinct stationhouse at any point.

Subject Officer: PO ANDRES ZAMBRANO

- *PO Andres Zambrano is a 5’10”, 165-pound, § 87(2)(b)-old Hispanic male with black hair and black eyes.*
- *On March 25, 2014, PO Zambrano of the 48th Precinct worked between the hours of 12 p.m. and 10:35 p.m. He was assigned to traffic duty in a marked vehicle (RMP #4482) and was dressed in uniform. He was working with PO David Hoffman of the same command.*

Memo Book:

PO Zambrano did not have any memo book entries relating to this incident. (encl. c9-11)

CCRB Statement:

PO Zambrano was interviewed at the CCRB on May 28, 2014 (encl. c12-14). At approximately 6:30 p.m. on March 25, 2014, PO Zambrano and his partner, PO Hoffman, were riding in a marked police vehicle on East Fordham Road in the Bronx. PO Zambrano was the passenger and PO Hoffman was the driver. PO Hoffman and PO Zambrano observed a vehicle driving west-bound in the bus lane on East Fordham Road.

After observing the vehicle travel in the bus lane for approximately one minute, the officers used the RMP’s lights and sirens to pull the vehicle over. The vehicle pulled over immediately. Both PO Zambrano and PO Hoffman exited the RMP. PO Hoffman approached the driver’s side while PO Zambrano approached the passenger’s side of the vehicle.

§ 87(2)(b) was the only individual inside of the vehicle. At no point did PO Zambrano observe a passenger in the vehicle. At no point after he first observed the vehicle traveling in the bus lane did PO Zambrano see anyone exit the vehicle. PO Zambrano did not recall § 87(2)(b) telling the officers that he had recently had an incident with a passenger in his vehicle. § 87(2)(b) did not tell the officers that he had recently kicked a passenger out of his vehicle, and at no point did § 87(2)(b) attempt to point out another individual that he claimed had been riding in his vehicle.

PO Zambrano heard PO Hoffman request § 87(2)(b)’s license and registration. He was unable to hear what § 87(2)(b) said in response to this request, but he did not recall § 87(2)(b) immediately providing PO Hoffman with his license and registration. Approximately two minutes after the officers first approached the vehicle, PO Zambrano observed § 87(2)(b) attempt to exit the vehicle. PO Hoffman was standing next to the driver’s door at this point. PO Zambrano was still on the passenger’s side of the vehicle, but began walking around the rear of the vehicle towards the driver’s side when he saw § 87(2)(b) exiting the vehicle.

PO Zambrano saw the driver’s door open and saw § 87(2)(b) begin to exit the vehicle. He then observed PO Hoffman place his hands in front of him with his elbows locked and his palms flat in order to stop § 87(2)(b) from exiting the vehicle. PO Zambrano could not recall where on § 87(2)(b)

§ 87(2)(b)'s body PO Hoffman placed his hands. PO Zambrano noted that East Fordham Road is busy and that he was concerned that the § 87(2)(b) might attempt to push PO Hoffman towards traffic.

PO Zambrano heard PO Hoffman say to § 87(2)(b) "Get back in the car. Get back in the car." PO Hoffman issued this command at least two times. PO Zambrano did not hear PO Hoffman say, "Get back in the fucking car," nor did PO Zambrano make this statement. When PO Zambrano arrived at the driver's side of the vehicle, § 87(2)(b) was already seated in the driver's seat of the vehicle again. PO Zambrano did not recall ever seeing § 87(2)(b) exit the vehicle completely. At no point did PO Zambrano see PO Hoffman push § 87(2)(b)'s head, nor did PO Zambrano do so. He did not see § 87(2)(b)'s head make contact with the door frame as he was getting back into the vehicle. He did not see PO Hoffman push § 87(2)(b)'s head into the door frame, nor did PO Zambrano do so. PO Zambrano did not make any physical contact with § 87(2)(b) during the incident, nor did he speak with § 87(2)(b).

PO Zambrano did not determine that § 87(2)(b) could be placed under arrest at any point during the incident. PO Hoffman did not tell PO Zambrano that he had made a determination that § 87(2)(b) could be placed under arrest during the incident. At no point did PO Zambrano hear PO Hoffman say to § 87(2)(b) "Now you're gonna go to jail," nor did PO Zambrano make this statement. At no point did PO Zambrano hear PO Hoffman request to search § 87(2)(b)'s vehicle, nor was there any reason for the officers to search the vehicle.

PO Zambrano did not interact with § 87(2)(b) again at any point after the vehicle stop. He did not see § 87(2)(b) at the 48th Precinct stationhouse at any point and did not hear § 87(2)(b) make a request to file a complaint against officers. PO Zambrano was never made aware that § 87(2)(b) came to the 48th Precinct stationhouse in order to file a complaint.

Witness Officer: SGT. NATHAN YAKUBOV

- *Sgt. Yakubov is a 6'0" tall, 200-pound white male with black hair and brown eyes. He was § 87(2)(b) old at the time of the incident.*
- *On March 25, 2014, Sgt. Yakubov was in uniform and worked from 2:50 p.m. to 11:47 p.m. assigned as the desk officer in the 48th Precinct stationhouse.*

Memo Book

Sgt. Yakubov had no entries in his memo book regarding this incident (encl. c16-17). As the desk officer, Sgt. Yakubov recorded his activities in the command log.

CCRB Statement

Sgt. Yakubov was interviewed at the CCRB on September 15, 2014 (encl. c18-19). Sgt. Yakubov had no recollection of the incident involving § 87(2)(b) after being given a description of the incident. He did not recall a civilian coming into the stationhouse to file a complaint against PO Donald Hoffman and PO Andres Zambrano. Sgt. Yakubov did not recognize § 87(2)(b) when shown his photograph and did not recall seeing him or interacting with him on March 25, 2014.

Sgt. Yakubov did not recall who else was working at the desk at the time of the incident. He did not recall any particular incident occurring during his tour at the desk on March 25, 2014. Sgt. Yakubov stated that when someone comes to the stationhouse to file a complaint against officers, he takes the complaint if the civilian wishes. If the civilian does not want to file the complaint there, Sgt. Yakubov will give the relevant paperwork to the civilian, give them the number to CCRB and IAB and make a command log

entry. Sgt. Yakubov did not recall telling any civilian on March 25, 2014 that he could not take a complaint against officers.

Sgt. Yakubov was shown the command log entries between 6:30 p.m. and 7:00 p.m. on March 25, 2014. He confirmed that his handwriting is on the command log at those times.

NYPD Document(s)

Command Log

The 48th Precinct command log from the evening of March 25, 2014 (encl. d11-19) contains no entries regarding a civilian being present at the stationhouse to file a complaint.

Summons/Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of August 29, 2014 with regard to the incident. (encl. e1)

Civilian(s) Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]

Civilian(s) CCRB History

- This is the first CCRB complaint filed by § 87(2)(b) (encl. a3)

Subject Officer(s) CCRB History

- PO Hoffman has been a member of the service for six years and there are no substantiated CCRB allegations against him. (encl. a1)
- PO Zambrano has been a member of the service for two years and there are no substantiated CCRB allegations against him. (encl. a2)

Conclusion

Identification of Subject Officer(s)

When speaking generally about the force used against him, § 87(2)(b) stated that both officers were pushing and shoving him into the vehicle. However, in his statements to IAB and the CCRB, when asked specifically who did what to him, § 87(2)(b) clarified that PO Hoffman grabbed and pushed him, causing his head to hit the car. § 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

Investigative Findings and Recommendations

Allegation A – Force: PO Donald Hoffman used physical force against § 87(2)(b)

§ 87(2)(b) stated that when trying to explain to the officers that he had a complaint against the troublesome passenger who had just exited his car, he opened the door of his car (which did not make contact with PO Hoffman) and stepped out in order to identify the individual. At that point, PO Hoffman shoved him back into the car and pushed his head, causing his head to hit against the car. This resulted in a stiff neck, but § 87(2)(b) did not seek medical treatment.

Both officers denied seeing a passenger exit § 87(2)(b)'s vehicle and denied hearing him make a complaint about a difficult passenger when they approached his vehicle. PO Hoffman stated that § 87(2)(b) was irate and screaming about being stopped, although PO Zambrano did not make this claim. PO Hoffman acknowledged making physical contact with § 87(2)(b) in order to prevent him from exiting his vehicle, but the nature of this contact was different than the pushing and shoving described by § 87(2)(b). He stated that when § 87(2)(b) first started to exit the car, he grabbed the car door but was overpowered by § 87(2)(b) who stood up outside the car. PO Hoffman then put his hands out in front of him, pressed on § 87(2)(b)'s upper chest, and told him not to exit the car. PO Hoffman reacted this way because he had been trained not to allow motorists out of their vehicles in high-traffic areas for their own safety and for that of the officers. PO Zambrano reported seeing the same amount of force described by PO Hoffman, and stated that he was concerned that § 87(2)(b) might attempt to push PO Hoffman towards traffic. Both officers denied that PO Hoffman pushed § 87(2)(b)'s head into his car.

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Abuse of Authority: PO Donald Hoffman threatened to arrest § 87(2)(b)

Allegation C – Discourtesy: PO Andres Zambrano spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that when he was pushed back into his car, PO Hoffman shouted, “Now you’re gonna go to jail! Now you messed up!” and PO Zambrano shouted, “Get back in your fucking car!” In his telephone statement, § 87(2)(b) alleged that PO Zambrano told him he was “fucking stupid.” PO Hoffman also shouted at § 87(2)(b) approximately three times, “Now I’m gonna suspend your license! Now I’m gonna take you to jail!”

PO Hoffman testified that § 87(2)(b) could have been arrested for disorderly conduct and for failure to comply with a lawful order during the incident. However, he denied telling § 87(2)(b) at any point that he could be placed under arrest, saying, “Now you’re gonna go to jail,” and telling § 87(2)(b) that his license was going to be suspended. PO Zambrano did not hear PO Hoffman threaten § 87(2)(b) with arrest. PO Zambrano denied telling § 87(2)(b) “Get back in the fucking car,” and stated that § 87(2)(b) had already returned to the driver’s seat by the time he came around the car to assist PO Hoffman. PO Hoffman did not hear PO Zambrano make the alleged remark.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

